

**Village of Brewster  
Planning Board Meeting Minutes  
August 17, 2021**

**BOARD MEMBERS:**

Rick Lowell, Chairman  
Janet Ward, Vice Chairperson  
David Kulo  
Marti Foster  
Katy New

**PROFESSIONAL ADVISORS:**

Greg Folchetti, Attorney - Costello & Folchetti  
Todd Atkinson, PE – J.R. Folchetti & Associates  
George Gaspar, Village Trustee Liaison to Planning Board

Chairman Lowell led the Board in the Pledge of Allegiance, whereupon the proceedings were called to order at 7:30pm.

**PUBLIC HEARING:**

**28 Eastview, Tax Map ID 56.19-2-11, R20 District:**

Chris DeBellis of DeBellis Construction and Brian Stokosa appeared before the Board representing this application.

Chairman Lowell said this Public Hearing is opened from the previous month and asked if anyone from the public would like to make a comment on this application. Seeing there is no one from the public here, I asked for a motion to close the Public Hearing, he said.

Boardmember New made a motion to close the Public Hearing, seconded by Boardmember Ward, and passed all in favor.

**REGULAR MEETING:**

Boardmember Ward made a motion to open the regular meeting, seconded by Boardmember New, and passed all in favor.

Chairman Lowell said in looking through my notes for the last couple meetings I noticed that we were supposed to have a Public Hearing for SEQRA for this same application and I do not think it was advertised as SEQRA. He said I will check with the Village Clerk as to the wording of the notice and if we have to re-notice for SEQRA we will do that.

Boardmember Ward read the notice: "Please take notice that the Planning Board of the Village of Brewster will hold a Public Hearing pursuant to Village Law Section 7712(a) and Village Business Brewster Code Section 263.26 to hear the following application for 28 Eastview. The parcel contains 3.345 acres residing in R20 Zoning and wishes to extend and upgrade the existing driveway along Eastview to Village Road, 324 lineal feet, terminating in a hammerhead style cul-de-sac. The proposed cul-de-sac provides

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road frontage to support the creation of three residential single-family dwellings. Central water will be extended to the cul-de-sac area. Each proposed home will be served via central water and sewer connections. The Public Hearing for the Planning Board will be July 20..." Chairman Lowell said it does not mention SEQRA at all. Boardmember Ward said does it need to say SEQRA in the advertisement. Chairman Lowell said when I took my notes regarding having the Public Hearing, I noted that there needed to be two separate hearings. Mr. Folchetti said the motion to set the Public Hearings on the initial date was for both purposes; subdivision and SEQRA. He said you must address SEQRA though one way or another before you can make a determination. If you want to make a motion to set a Public Hearing for the September meeting for the purposes of SEQRA, I would leave the subdivision Public Hearing open, he said. I cannot make a recommendation to make a decision on the subdivision without having had SEQRA determination. Mr. Atkinson said I agree with you Greg, but in other municipalities they do not discuss the actual SEQRA talking points in the actual notice so I am not sure if it is 100% required. Mr. Folchetti said the meeting was noticed and no one attended; you could do a negative declaration and determination with whatever conditions you want to include such as the dedications. He said I don't have a problem with that as long as you do it in right order with SEQRA first and then the negative declaration.

Chairman Lowell said should we re-open the meeting. Mr. Folchetti said you can always re-open a Public Hearing. Boardmember Ward said did we go through the EAF. Mr. Atkinson said it was detailed on my memo.

Chairman Lowell said we can go ahead and declare a negative declaration on the SEQRA since Todd has no objections and we did discuss all the information on it. Boardmember Ward said is it a Type I or Type II. Mr. Folchetti said you need to make a determination. Mr. Folchetti said if you are prepared, the motion will be to make a negative declaration with respect to this particular application. Boardmember Ward said I found the EAF from 1/28/21.

Chairman Lowell said Todd, that was all cleared in the discussions we had. Mr. Atkinson said that was all cleared although there were a couple comments that I still have that I have asked Greg to put into the resolution to meet the requirements of the engineer's last letter. Boardmember Ward said if we didn't do the Public Hearing, do we have to notice the involved or interested parties or did we declare ourselves as lead agency. Chairman Lowell said did we take those steps. Mr. Folchetti said it is an uncoordinated review so the determination will be that you assume lead agency and made a negative declaration. Chairman Lowell said there were no open comments then, Todd. Mr. Atkinson said not on the SEQRA, but I do have some comments that will be incorporated into the subdivision resolution.

Boardmember Ward said this is what agencies approved so Village Planning Board subdivision, the Building Department, and Town Highway Department for the driveway permit. We know that the Village Highway has reviewed with Todd and approved for

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the dedication of the road, she said. Board of Health, water/sewer and then we have DEC Stormwater, she said. This is on the long EAF, she said. Mr. Atkinson said those approvals will be forthcoming as part of the resolution for approval of the subdivision.

Boardmember Ward said we didn't have any comments from any of the abutting neighbors in the prior meeting. Chairman Lowell said who was supposed to be noticed on that. Mr. Atkinson said all adjoining property owners plus I believe anyone within 500 ft. Boardmember Ward said what about for SEQRA and the involved or interested agencies. Mr. Atkinson said it is an uncoordinated review. Boardmember Ward said this EAF was for the original plan when the number of lots proposed as two instead of three. Chairman Lowell said that is really not changing any of the disturbance area. Mr. Atkinson said there was an updated one submitted as well. Boardmember Ward said 1200 gallons a day; is that still accurate for three houses as opposed to two. Mr. Atkinson said no, that would go to 1800 a day for the septic.

Boardmember Ward said Greg, there's no risk of moving it forward. Mr. Atkinson said you mean no risk in moving it forward from a SEQRA standpoint, no there isn't. Boardmember Ward said I don't want the applicant to have issues later because we may have noticed it incorrectly or reviewed it incorrectly. Mr. Atkinson said I'm not sure if it is 100% true to say we didn't notice it correctly because I know other municipalities don't notice for the SEQRA. Boardmember Ward said let me word it correctly: our notice was worded as it was in the public notice. Mr. Atkinson said I don't see any risk of it, especially since there have been no comments at all at the public hearing on two different dates. Mr. Folchetti said I would agree with that assessment. He said you can make a determination and any final determination that the Board makes is subject to challenge by any party, but this is not a case where there would be more concern than there ordinarily would be.

Mr. Folchetti said the motion would be to declare yourself as lead agency in an uncoordinated review and to make a determination that this particular project is a negative declaration with respect to SEQRA; you can adopt that motion if you want. Boardmember Ward said I make that motion as Mr. Folchetti stated to declare the Village of Brewster Planning Board as Lead Agency in an uncoordinated review and find a Negative Declaration for the SEQRA review for 28 Eastview Ave., Brewster; seconded by Boardmember New and passed all in favor.

Mr. Folchetti said now you make a motion for conditional final approval of the subdivision including the proposed dedication of properties and easements and any comments that would be from the Village Engineer's memo. Chairman Lowell said it's a conditional approval of the subdivision conditional on acceptance by the Village Board of the dedication and conditioned on the comment letter from the Village Engineer. Mr. Folchetti said the two conditions other than the standard are the submission of the dedication for the properties and easement and adherence to the Village Engineer's remaining comments.

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Chairman Lowell said a motion to make a conditional approval of the subdivision of 28 Eastview Avenue conditioned upon the acceptance by the Village Board for the dedication of the road and utilities and conditional upon the adherence to the Village Engineer's comments, seconded by Boardmember Ward, and passed all in favor (3-0).

### **Urban Renewal Plan:**

Chairman Lowell said we are here to discuss declaring Lead Agency for SEQRA for the Urban Renewal Plan. Mr. Folchetti said it is worded your Intent to act as Lead Agency. He said at some point you may make the determination that you are Lead Agency, but this is just an intent at this point.

Chairman Lowell said what is the proper name of the project. iPark Brewster LLC; Boardmember Ward said in the application the name of the project is Lofts on Main and the applicant is iPark Brewster LLC.

Boardmember Ward said we have a long EAF form that we received from the applicant and I was trying to understand from discussion; how are we declaring the intent to declare ourselves as Lead Agency when we only have a very preliminary, conceptual design and there is environmental impact. She said I have a lot of questions on the EAF that we have and normally my experience when declaring Lead Agency is that there needs to be a more complete application. Is it because this project is larger that there are different steps, she said. Mr. Folchetti said you have an application that was submitted with all the appropriate fees, you have the EAF, and this is the first step that the Board is going to be taking in terms of its role in the environmental quality review of the project. He said if there are questions on the EAF it is for the agencies to bring up in their comments to the applicant. You are not making any determination, he said, you are just declaring your intent to play that role in the process.

Chairman Lowell said will the EAF or site plan be sent out before they've been reviewed by this Board and accepted by this Board or will they have to wait. In other words, he said, will stuff go out for comment to the other agencies involved before we...Mr. Folchetti said as soon as you declare your intent, the circulation process will begin so that if any other agency feels that they have the standing and status to take that role then it is going to have to be resolved.

Boardmember Ward said my experience has been that you have to have a more complete application. Mr. Folchetti said I understand what you are saying, but they do have an application that was accepted and the fees paid so that is what is being asked of the Board tonight. Chairman Lowell said my question was whether the documents that we have to accept; when you normally have a completed application the elements of the application have been discussed by us and approved by us and then they go out and then if there are comments from other agencies then those comments... Mr. Folchetti said the application is submitted and accepted with the fees and then it is submitted to you for placement on an agenda. He said your comments, which may

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involve SEQRA, design or any other of the project improvements as they are proposed are going to be incorporated. With respect to the process, you as the Planning Board intend to act as Lead Agency and you are letting the other agencies know that and give them the information that you have been given so that they can either generate their comments or make their determination that they feel that they have a great role in the review process as Lead Agency, which is theoretically possible. Chairman Lowell said none of that would be any detriment to the Village itself. Mr. Folchetti said nothing you are doing tonight is sufficiently final that would trigger an Article 78 in my experience. He said anyone could bring an action for declaring intent to act as Lead Agency, but rarely for declaring the intent to act as Lead Agency; it just doesn't happen. He said if you are asking me if there is enough information to you to declare your intent, I would say yes.

Boardmember Ward said I have a couple questions: In our declaration of intent to declare ourselves as Lead Agency, does that say that we're confirming that this is a complete application. Mr. Folchetti said you can ask the applicant for any other submissions during the course of the review process that you deem appropriate and in accordance with the Village's design criteria and review standards. Mr. Atkinson said that is correct; what's going to happen here is if you decide to move forward with your intent to be the lead agent, there will be information provided and circulated and it will generate a response from everyone that it gets sent out to. He said one of the responses from the County might say provide additional information of site plan or whatnot and that's going to generate questions and the applicant will then have to address as part of the process. He said starting this process will probably take more than 30 days in order to get everyone to the point where they are content with the information that's being provided. I think that on a large project like this, he said, getting information out and getting it out to the public so they understand what is going on is the key. Boardmember Ward said we're saying we're lead agency so we're saying that we have enough information to be confident as lead agency. Chairman Lowell said no, we're not saying that. Mr. Atkinson said no, you're saying that you feel that you should be the lead agency for the environmental review of this application. He said you're not saying you're lead agent; you're just saying here is the information we have right now, additional information will be forthcoming, and you believe you have the right to be lead agency on this or let us know within 30 days by writing back. Boardmember Ward said in their comments back, we would not have the information for them to evaluate so would we re-send information as we get it or once we have a complete application. Mr. Atkinson said I believe the answer to that is definitely yes and it would be to anyone that requests additional information. He said I believe the applicant is working on a site plan as well as all the initial information that needs to be submitted to the Planning Board for further review as we speak and as that information comes in it will be shared with anyone that requests additional information. Mr. Folchetti said it does not hinder your ability to require additional information later in the submission in connection with the approvals throughout the course of the project.

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Boardmember New said it sounds like you're not willing to put your name on it until you're sure that you have enough information to be confident with it, but that's not what we're... Chairman Lowell said we're not sending out a completed application and saying this is it; we're sending out a message that says 'if you have questions direct them over here.' Mr. Atkinson said as a board you have the ability to say 'we're not ready to do this' as well right now and say 'we need a site plan.' Mr. Folchetti said if there are not three votes to declare your intent tonight, then there aren't three votes. Chairman Lowell said our intent doesn't signal approval of anything; it just signals intent. Mr. Folchetti said it just gets the ball rolling. Boardmember Ward said right, but it's starting a timeclock. Mayor Schoenig said you're only starting the timeclock to declare yourself as lead agent. Boardmember Ward said right, but don't we then only have 62 days to either issue a negative declaration or a positive declaration. Mr. Folchetti said no, you're talking about approvals at the close of a public hearing, which is completely different.

Boardmember Ward said if we issue our intent to declare ourselves as lead agency, what is the timeclock that that starts. Mr. Folchetti said the only time you have to be concerned about is when you close a public hearing and then you have to make a determination within a certain time. This is just to get it circulated to other agencies that have jurisdiction here, he said.

Boardmember Ward said in their construction schedule it looked like they wanted to do demolition in October. Mr. Atkinson said they can pull a demolition permit if they own the property without having site plan approval. Boardmember Ward said right, but a demolition permit would be environmental impact. Mr. Folchetti said demolition permits are issued by the Building Department. Boardmember Ward said how is that not causing environmental impact as you would have to have stormwater or erosion and sediment control. Chairman Lowell said that is part of the permit process that the Building Department would specify.

Mr. Atkinson said Janet, I hear your concern and I echo that same concern; if you feel that you do not have enough information right now then that's totally acceptable and you can say 'we need a site plan' or we need this, this, and this in order to declare our intent as Lead Agency. Boardmember Ward said we are demolishing half our Village, right next to MTA and New York City Watershed. Mr. Atkinson said they will be interested or involved agencies so they will get this notification and it's going to generate very big comment letters from both those agencies. He said all you are looking to do is to declare your intent to be Lead Agency and let the process begin is really what they are looking for tonight. Boardmember Ward said is it normal with something of this size to start the process with almost no information and I want to make sure we do it right so there are no issues later.

Chairman Lowell said the applicant will have to answer questions from us and other agencies as they arise and be prepared to answer them. He said they are the ones taking the risk and as long as there is no risk to the Village then that's OK.

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Mr. Atkinson it would be similar to one of you going down to the Village to get a demolition permit to demo your house. You're not going to do that because it's a viable commodity right now, he said, and they are just being very aggressive in writing the EAF. He said if we get this process started, I would like to have a meeting with the applicant's architect and engineer and really look at all the major concerns that I have that they need to get going on address so they can get ahead of the game on this. Mr. Atkinson said I think letting them move forward right now is not going to hurt the Village.

Boardmember Ward said I love the project and the developer seems to have done this in other places and been successful, but do we have protection in place that they don't get halfway through the project and leave. Mr. Folchetti said they don't have any obligation to complete the project, no one has that obligation.

Mr. Atkinson said the disturbance is going to be over a set amount so this is going to be a phased approach. He said they're going to have to tell us what buildings they are going to do in what order. Boardmember Ward said their EAF says they are disturbing under five acres; they're saying they're only disturbing 3.5 acres. Mr. Atkinson said with the roadways and everything it is less than five acres of their property.

Mr. Gaspar said look at it this way: who do you want to make decisions; do you want to make the decisions or do you want DEC to make the decisions for us. Boardmember Ward said we want to make the decisions. Mr. Gaspar said I totally understand what you are saying as I just went through this in Mount Kisco. He said this project is so big that we want to whole control and we want to take the comments from the other agencies and make sure they're incorporated as their comments may generate questions that you haven't even thought of yet.

Boardmember Ward said who determines who is on the list of involved and interested agencies. Mr. Folchetti said the involved agencies are named from their jurisdiction over the action, but it is not a determination that any makes, it is New York State law. Mr. Folchetti said this is just us saying that we intend to take the lead in reviewing the environmental quality part of this project. We obviously have jurisdiction over for site plan by virtue of the fact that it falls within the boundaries of the Village of Brewster, but SEQRA is a separate part of the approval process, he said.

Chairman Lowell said Boardmember Ward, you asked a lot of tough questions, are you satisfied that it's safe to proceed. Boardmember Ward said I understand that the intent is for us to be in control of the process and I agree with that part. I guess it puts the risk on the developer by not giving us a good application, she said, that it won't get as good a response and it drags out because then you have a lot of questions and back and forth. Chairman Lowell said that's not a bad thing necessarily if it generates a lot of back and forth among these other agencies.

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Boardmember Ward said we're just sending out the EAF, the application, and their plans that they've given us and we're saying our intent is to declare ourselves as lead agent. The agencies will either not comment or they will comment, she said, and that's not putting any risk or timeframes on the application process. Chairman Lowell said that is what our experts have told us. Mr. Atkinson said the law says that; there is no timeclock. Mr. Folchetti said you're going to adopt the minutes and that's a record and what Todd and I said are going to be in them.

Chairman Lowell made a motion that the Planning Board declare intent to act as Lead Agency for SEQRA for the Urban Renewal Project proposed by iPark Brewster, LLC and titled Lofts on Main, seconded by Boardmember New with no further discussion.

**ROLL CALL VOTE:**

Boardmember Ward	Aye
Boardmember New	Aye
Chairman Lowell	Aye

Passes 3-0 in favor.

The minutes of May 18, 2021 and the July 20, 2021 will be moved to the September 21, 2021 meeting due to lack of board member presence that was familiar with these meetings.

**NEW BUSINESS:**

Boardmember Ward said have we heard anything more about training. Mayor Schoenig said I reached out again to Tiffany today but we want to do all the boards at the same time. Chairman Lowell said I would like to have some definition of the actual roles of each of the boards individually.

Chairman Lowell made a Motion to adjourn the meeting, seconded by Boardmember Ward, and passed all in favor.